

SENATE SUBSTITUTE TO HB 296

AS PASSED SENATE**A BILL TO BE ENTITLED****AN ACT**

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to
2 authorize the Family Court Division of the Superior Court of Fulton County in the Atlanta
3 Judicial Circuit as a pilot project of limited duration; to provide for judges and their
4 appointment, designation, and terms; to provide for district attorneys, public defenders, a
5 clerk, probation officers, and other employees; to authorize agreements with other courts and
6 agencies for the assignment of personnel to such court; to authorize the Attorney General to
7 appoint attorneys to represent the Department of Human Resources in such court; to
8 authorize the chief judge of the Superior Court to require family court judges to complete a
9 planned program of instruction; to provide for jurisdiction, authority, powers, and duties of
10 the family court division; to provide for expenses; to provide for reports; to provide for
11 automatic repeal; to provide for requests that a hearing, trial, or other proceeding be held
12 before an elected judge of the superior or state court, as the case may be; to provide for a
13 definition; to provide for exceptions; to provide for related matters; to provide for
14 severability; to provide for effective dates and applicability; to repeal conflicting laws; and
15 for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

17
18 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Chapter
19 6, relating to superior courts, by inserting a new Code section to be designated Code Section
20 15-6-37 to read as follows:

21 "15-6-37.

22 (a) Except as provided in subsection (b) of this Code section, at any hearing, trial, or other
23 proceeding, if the individual presiding is not an elected judge of the superior court, any
24 plaintiff may request that such hearing, trial, or other proceeding be held before an elected
25 judge of the superior court, and such request shall be granted; provided, however, that such
26 request is made at or before the first hearing of any case or within five days of the date the
27 plaintiff learns that his or her case is assigned to a judge, whichever occurs first. As used

1 in this Code section, the term 'elected judge' means a duly elected judge or a judge who has
2 been appointed to fill a vacancy for an elective office as provided by Article VI, Section
3 VII, Paragraph III of the Georgia Constitution.

4 (b) Subsection (a) of this Code section shall not apply to the following:

5 (1) Any cause of action where a party is seeking relief pursuant to Chapter 13 of Title
6 19;

7 (2) Any cause of action where the defendant alleges in a counterclaim that the plaintiff
8 has engaged in physical abuse of the plaintiff; or

9 (3) Any cause of action where a party is seeking an interlocutory injunction or temporary
10 restraining order pursuant to Code Section 9-11-65."

11 **SECTION 2.**

12 Said title is further amended in Chapter 7, relating to state courts, by inserting a new Code
13 section to be designated Code Section 15-7-51 to read as follows:

14 "15-7-51.

15 Notwithstanding any provision of general or local law to the contrary, at any hearing, trial,
16 or other proceeding, if the individual presiding is not an elected judge of the state court,
17 any plaintiff may request that such hearing, trial, or other proceeding be held before an
18 elected judge of the state court, and such request shall be granted; provided, however, that
19 such request is made at or before the first hearing of any case or within five days of the date
20 the plaintiff learns that his or her case is assigned to a judge, whichever occurs first. As
21 used in this Code section, the term 'elected judge' means a duly elected judge or a judge
22 who has been appointed to fill a vacancy for an elective office as provided by Article VI,
23 Section VII, Paragraph III of the Georgia Constitution."

24 **SECTION 3.**

25 Said title is further amended by inserting a new chapter, to be designated as Chapter 11A, to
26 read as follows:

27 "CHAPTER 11A

28 15-11A-1.

29 There is hereby authorized a Family Court Division of the Superior Court of Fulton County
30 in the Atlanta Judicial Circuit as a pilot project pursuant to authority granted by Article VI,
31 Section I, Paragraph X of the Georgia Constitution.

15-11A-2.

The Family Court Division of the Superior Court of Fulton County, sometimes referred to in this chapter as the family court division and the superior court, respectively, shall exist as a pilot project of limited duration until July 1, 2010, and shall have the powers, rules of practice and procedure, and selection, qualifications, and terms of judges of the superior court and as duly adopted by the superior court for the family court division.

15-11A-3.

(a) The chief judge of the superior court shall designate one or more judges of the superior court to sit as judges of the family court division for terms of up to three years and shall designate successors for terms of up to three years. In addition, the chief judge of the superior court may designate one or more judges of the superior court to sit as judges of the family court division on a standby basis for terms of up to three years.

(b) The chief judge of the superior court may require the family court division judges to complete a planned program of instruction in family law, psychology, family dynamics, child development, nonadversarial techniques, and working with diverse populations.

15-11A-4.

(a) The district attorney of the Atlanta Judicial Circuit is authorized to designate one or more assistant district attorneys to serve in the family court division.

(b) The public defender of the Atlanta Judicial Circuit is authorized to designate one or more assistant public defenders to serve in the family court division.

(c) The clerk of the superior court or such clerk's designee shall serve as the clerk of the family court division.

(d) The chief judge of the Atlanta Judicial Circuit shall designate probation officers and other employees of the Atlanta Judicial Circuit to perform duties for the family court division. Such employees shall perform duties as directed by the judges of the family court division.

(e) The chief judge of the Atlanta Judicial Circuit may enter into agreements with other courts and agencies for the assignment of personnel from other courts or agencies to the Family Court Division of the Superior Court of Fulton County.

(f) The Attorney General of Georgia may appoint attorneys to represent the Department of Human Resources in the Family Court Division of the Superior Court of Fulton County.

15-11A-5.

(a) The family court division shall have the jurisdiction of the superior court and as provided in this Code Section.

(b) When a petition or case is filed in the superior court relating to divorce or where issues affecting children are involved, including, but not limited to, child support, child custody, visitation, child abuse, child molestation, domestic violence, legitimacy, paternity, adoption, abandonment, or contempt or modification relative to such cases, the chief judge of the superior court or an intake case manager designated by such chief judge may assign the case to the family court division. The Superior Court of Fulton County, State Court of Fulton County, Juvenile Court of Fulton County, Probate Court of Fulton County, Magistrate Court of Fulton County, and City of Atlanta Municipal Court are authorized to transfer ancillary cases related to the same family to the family court division. Such ancillary cases shall include but not be limited to any cases involving deprivation, delinquency involving behavioral issues, truancy, unruliness, abandonment, neglect, or termination of parental rights cases pending in the Juvenile Court of Fulton County; cases involving domestic violence, abandonment, or child support enforcement cases pending in the State Court of Fulton County; adult or minor guardianship cases pending in the Probate Court of Fulton County; or domestic violence cases pending in the Magistrate Court of Fulton County or City of Atlanta Municipal Court. In addition, any child support enforcement case from the jurisdiction of the State of Georgia shall be considered an ancillary case subject to transfer to the family court division. Whenever a dispute arises between the family court division and another court in Fulton County as to whether a case is an ancillary case which should be transferred to the family court division, such case may be transferred to the family court division pursuant to an order for transfer issued by the chief judge of the Atlanta Judicial Circuit.

(c) The judges of the family court division shall have the same authority, powers, and duties in the consideration and disposition of cases in the family court division as any judge of the Superior Court of Fulton County, State Court of Fulton County, Juvenile Court of Fulton County, Probate Court of Fulton County, Magistrate Court of Fulton County, or City of Atlanta Municipal Court.

15-11A-6.

Expenses for salaries, equipment, and supplies incurred in implementing this chapter shall be paid from state funds appropriated for such purpose and from the funds of Fulton County.

15-11A-7.

The Administrative Office of the Courts shall report annually regarding the activities of the Family Court Division of the Superior Court of Fulton County to the chief judge of the Atlanta Judicial Circuit, the Chief Justice of the Georgia Supreme Court, the Governor, the

1 Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons
2 of the Judiciary Committees of the House of Representatives and the Senate. The
3 Administrative Office of the Courts shall prepare for the same judicial officers and elected
4 officials a comprehensive report within 180 days following July 1, 2005, and within 180
5 days following July 1, 2009.

6 15-11A-8.

7 This chapter shall become effective upon signature of the Governor or upon becoming law
8 without his signature.

9 15-11A-9.

10 This chapter shall be repealed in its entirety on July 1, 2010."

11 **SECTION 3A.**

12 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
13 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
14 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
15 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
16 adjudged invalid or unconstitutional were not originally a part hereof. The General
17 Assembly declares that it would have passed the remaining parts of this Act if it had known
18 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

19 **SECTION 4.**

20 Section 3 of this Act shall become effective upon its approval by the Governor or upon its
21 becoming law without such approval, and the remaining sections of this Act shall become
22 effective on July 1, 2005, and shall apply to actions filed on or after that date.

23 **SECTION 5.**

24 All laws and parts of laws in conflict with this Act are repealed.